



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-093]

Refillable Stainless Steel Kegs from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of refillable stainless steel kegs (kegs) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). In addition, Commerce determines that critical circumstances exist with respect to certain imports of the subject merchandise. The period of investigation (POI) is January 1, 2018 through June 30, 2018. The final estimated weighted-average dumping margins are listed below in the "Final Determination" section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Aimee Phelan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0410 or (202) 482-0697, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Determination* in the LTFV investigation of kegs from China on June 4, 2019.¹ For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.²

Period of Investigation

The period of investigation is January 1, 2018 through June 30, 2018.

Scope of the Investigation

The product covered by this investigation is kegs from China. For a full description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of issues raised is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all parties in Commerce’s Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>.

¹ See *Refillable Stainless Steel Kegs from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 84 FR 25745 (June 4, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Refillable Stainless Steel Kegs from the People’s Republic of China: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we verified the U.S. sales and factors of production information submitted by Ningbo Master International Trade Co., Ltd. (Ningbo Master) in July 2019.³ We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Ningbo Master.

China-Wide Entity and Use of Adverse Facts Available

We continue to find that the use of facts available is warranted in determining the rate for the China-wide entity pursuant to sections 776(a)(1) and (a)(2)(A)-(C) of the Act.⁴ Further, we found that the China-wide entity did not cooperate to the best of its ability to comply with our requests for information and, accordingly, we determined it appropriate to apply adverse inferences in selecting from the facts available, pursuant to section 776(b) of the Act and 19 CFR 351.308(c).

Changes from the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to our dumping margin calculation for Ningbo Master and revised the margins for non-selected respondents and the China-wide entity to reflect the revised margins for Ningbo Master.⁵

³ See Memorandum, “Verification of the Questionnaire Responses of Ningbo Master International Trade Co., Ltd. in the Antidumping Investigation of Refillable Stainless Steel Kegs from the People’s Republic of China,” dated July 25, 2019.

⁴ See *Preliminary Determination* PDM at 16-18.

⁵ See Issues and Decision Memorandum for a discussion of these changes.

Combination Rates

Consistent with the *Preliminary Determination*⁶ and Policy Bulletin 05.1,⁷ Commerce determined combination rates for the respondents that are eligible for a separate rate in this investigation.

Final Affirmative Determination of Critical Circumstances, in Part

In the *Preliminary Determination*, Commerce preliminarily determined that critical circumstances exist with respect to imports of kegs from China for the China-wide entity, but do not exist for Ningbo Master or for the separate rate applicants, Ningbo Haishu Direct Import And Export Trade Co., Ltd. (Haishu), Guangzhou Jingye Machinery Co., Ltd. (Jingye), and Guangzhou Ulix Industrial & Trading Co., Ltd. (Ulix).⁸ However, in this final determination, in accordance with section 735(a)(3) and 19 CFR 351.206, we find that critical circumstances exist with respect to subject merchandise produced or exported by the China-wide entity,⁹ but do not exist with respect to Ningbo Master, Jingye, or Ulix. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Issues and Decision Memorandum.

⁶ *See Preliminary Determination*, 84 FR at 25745-46.

⁷ *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁸ *See Preliminary Determination* PDM at 31-34.

⁹ Although we preliminarily found that Haishu was eligible for a separate rate, we have found that it is not eligible for a separate rate for this final determination. *See* Issues and Decision Memorandum at "Separate Rates" section.

Final Determination

Commerce determines that the following weighted-average dumping margins exist:

Exporter	Producer	Estimated Weighted-Average Dumping Margin (percent <i>ad valorem</i>)	Cash Deposit Rate (Adjusted for Subsidy Offsets) (percent <i>ad valorem</i>)
Ningbo Master International Trade Co., Ltd.	Ningbo Major Draft Beer Equipment Co., Ltd.	*0.00	0.00
Guangzhou Jingye Machinery Co., Ltd.	Guangzhou Jingye Machinery Co., Ltd.	0.00	0.0
Guangzhou Ulix Industrial & Trading Co., Ltd.	Guangzhou Jingye Machinery Co., Ltd.	0.00	0.0
China-Wide Entity ¹⁰		77.13	63.60

*(*de minimis*)

Consistent with section 733(b)(3) of the Act, Commerce determines that Ningbo Master, the individually examined respondent with a *de minimis* margin, has not made sales of subject merchandise at LTFV. Therefore, we will exclude Ningbo Master from the antidumping duty order in the event an order is instituted.

With respect to Jingye and Ulix, consistent with the decision of the Court of Appeals for the Federal Circuit in *Changzhou Hawd Flooring CAFC*, we are assigning to the separate-rate-eligible non-selected respondents the rate we calculated for Ningbo Master, *i.e.*, zero percent.

¹⁰ We preliminarily determined that subject merchandise produced by Ningbo Haishu Xiangsheng Metal Products Plant and exported by Ningbo Haishu Direct Import and Export Trade Co., Ltd., was eligible for a separate rate. *See Preliminary Determination* PDM at 14-15. For this final determination, we determine that such subject merchandise is not eligible for a separate rate. *See* Issues and Decision Memorandum at Comment 9.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final determination or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of kegs from China, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after June 4, 2019, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*, with the exception of entries of subject merchandise that were produced by Ningbo Major Draft Beer Equipment Co., Ltd., and exported by Ningbo Master International Trade Co., Ltd.; with regard to such entries, because we have determined the weighted-average dumping margin to be zero, we will exclude Ningbo Master from the antidumping duty order, in the event an order is instituted, and we will discontinue the suspension of liquidation and will refund all cash deposits already collected for this producer/exporter combination. Such exclusion will not be applicable to merchandise exported to the United States by any other producer/exporter combinations or by third-country exporters that sourced from the excluded producer/exporter combination(s). Moreover, consistent with the decision of the Court of International Trade in *Changzhou Hawd Flooring CIT*, we will not exclude from the antidumping duty order, in the event an order is instituted, the separate-rate-eligible non-selected respondents.¹¹

¹¹ See *Changzhou Hawd Flooring Co. v. United States*, 324 F. Supp. 3d 1317 (*Changzhou Hawd Flooring CIT*).

Because we find that critical circumstances exist for subject merchandise produced for the China-wide entity, we will instruct CBP to suspend liquidation of all entries of kegs from China which were entered, or withdrawn from warehouse, for consumption on or after March 6, 2019, which is 90 days prior to the date of publication of the *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit¹² equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of Chinese exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from China no later than 45 days after our final determination. If the ITC

¹² See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

determines that such injury does not exist, this proceeding will be terminated, and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: October 17, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a “D Sankey” extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

“Unassembled” or “unfinished” refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following:

- (1) vessels or containers that are not approximately cylindrical in nature (*e.g.*, box, “hopper” or “cone” shaped vessels);
- (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny” or “ball lock” kegs);
- (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and
- (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the *Tariff Act of 1930*, as amended.

The merchandise covered by this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050.

These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Surrogate Country
- V. Separate Rates
- VI. China-Wide Rate
- VII. Affirmative Determination of Critical Circumstances
- VIII. Changes Since the Preliminary Determination
- IX. Adjustments to Cash Deposit Rates for Export Subsidies and Double Remedies
- X. Discussion of the Issues
 - a. Ningbo Master International Trade Co., Ltd.
 - Comment 1: Labor Surrogate Value
 - Comment 2: Surrogate Financial Ratio Calculations
 - Comment 3: Value-Added-Tax (VAT) Adjustment
 - Comment 4: Minor Corrections
 - Comment 5: Alleged Pre-POI Sale
 - Comment 6: Proprietary Adjustment
 - Comment 7: Spear Surrogate Value
 - Comment 8: Neck Surrogate Value
 - b. Separate Rate Eligibility
 - Comment 9: Ningbo Haishu Direct Import and Export Trade Co., Ltd.
 - Comment 10: Guangzhou Jingye Machinery Company, Ltd.
 - Comment 11: Guangzhou Ulix Industrial & Trading Company, Ltd.
- XI. Recommendation

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